



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	State Board of Social Services
VAC Chapter Number:	22 VAC 40-250
Regulation Title:	Agency Placement Adoptions-AREVA
Action Title:	Amend as result of periodic review
Date:	January 30, 2003

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulation sets forth the functions and procedures for the Adoption Resource Exchange of Virginia (AREVA). AREVA provides photo-listings and narratives of children waiting for adoption and approved adoptive families waiting for children. Amendments are proposed in order to make the regulation consistent with a related adoption regulation, 22 VAC 40-260, Subsidy. Amendments also extend the time for local agencies to register children in AREVA and delete references to obsolete terms.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 63.2-217 of the Code of Virginia provides that the State Board shall adopt such regulations as necessary or desirable to carry out the purpose of Title 63.2 of the Code of Virginia. Section 63.2-900 of the Code of Virginia provides that a local board shall adopt regulations for the provision of foster care services directed toward the permanent planning for children in the custody of or placed by local boards. The provisions of 22 VAC 40-250 are directly related to the statutory authority, by facilitating the placement of children in permanent, adoptive homes. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The regulation provides guidelines for AREVA registration and operations. AREVA is an essential tool for recruiting adoptive families for waiting children. Without registration of a child with AREVA, the child is likely to remain in foster care for a longer period of time before achieving permanency with an adoptive family. Therefore, the regulation is essential to protect the health, safety, and welfare of waiting children in foster care.

The regulation was enacted in 1989, based on the practices and population of children waiting for adoptive families at that time. The proposed amendments will make the regulation consistent with other applicable regulations relative to the children registered, provide agencies adequate time to register children and families, and update the regulation by omitting obsolete terms and references. An amendment is also needed to lengthen the time for child registration following termination of parental rights from 30 to 60 days. This is to ensure that the agency has sufficient time to receive the court order terminating parental rights before the child is registered with AREVA. Other amendments are necessary to delete obsolete language and to include reference to an automated adoption exchange.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

An amendment to the regulation is necessary to make the AREVA registration criteria for children consistent with criteria for adoption subsidy eligibility. The children registered with AREVA are those determined to have special needs or individual characteristics that make them hard to place for adoption, thus making them eligible to receive adoption subsidy. The regulation which addresses special needs and adoption subsidy criteria (22 VAC 40-260) is also being amended. It is important that both regulations reflect the same criteria.

An amendment is also needed to lengthen the timeframe for child registration following termination of parental rights. This is to ensure that the agency has sufficient time to receive the court order terminating the parental rights before registering the child with AREVA. Other amendments are necessary to delete obsolete language and to include reference to an automated adoption exchange.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage of the regulation to the public, agency, and Commonwealth is that uniform policies for administering AREVA will remain in effect. The advantage of the proposed amendments to the public, agency, and Commonwealth is that the AREVA registration criteria will be updated to more adequately reflect the population in care and be consistent with other related regulations, thus enhancing AREVA's function as an effective tool for facilitating the placement of children. There are no disadvantages to the public or Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

There is no anticipated fiscal impact of amending the regulation.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

22 VAC 40-250-10

This section of the regulation defines the population of children required to be registered with AREVA and has been amended to reflect the proposed eligibility criteria for adoption assistance. This is necessary because the children eligible for adoption assistance are the same children to be registered with AREVA.

22 VAC 40-250-20

1, f, (3): Deletes the requirement that AREVA monitor agency submission of the Adoptive Placement Plan. The Adoptive Placement Plan is no longer used by local agencies.

2, a, (1): Lengthens the time in which children must be registered with AREVA from 30 to 60 days following termination of parental rights. This provides a longer period in which agencies can register children to ensure the agency has sufficient time to receive the court order terminating parental rights before registration with AREVA.

2, a, (2): Deletes requirement that agency submit a copy of the Adoptive Placement Plan as part of AREVA registration. The Adoptive Placement Plan is no longer used by local agencies.

2, b, (1): Lengthens the time in which approved families are registered with AREVA after their approval date from 30 to 60 days. This change makes the registration time frame for families consistent with that of child registration.

2, b, (1) (d): Amends characteristic (d) regarding black, biracial or members of other minority races by adding a minimum age of three years. This change is consistent with proposed changes in the eligibility criteria for adoption assistance.

3, b: Adds a provision allowing an additional 30-day deferment at the discretion of AREVA staff. This provides additional time when an adoptive family has been identified and placement is pending.

5, d: Adds a provision allowing AREVA staff to feature children on the state's electronic adoption exchange, in addition to the manual photo-listing.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Retaining and amending the regulation ensures that use of AREVA as a recruitment tool for children will continue to be done uniformly statewide in a manner, which is responsive to the current population of waiting children. Retaining and amending the regulation represents the least burdensome alternative.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

There was no public comment.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency, through examination of the regulation, determined that the regulation is clearly written and understandable by individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The regulation will be reviewed as needed and no later than four years after the proposed regulation is effective. At that time, the agency will initiate a review and re-evaluation of the regulation to determine if it should be continued, amended, or terminated, and to ensure that the regulation addresses the specific, measurable goals of AREVA.